

We are making a decision about putting someone on the Fed who is supposed to enforce the laws we pass. The purpose is not to send an advocate over to the FEC.

That's right, this nominee most wants to be on the regulatory body in charge of administering the statutes that Congress passes in order to present the view that we do not need more regulation. Not to implement Congress's will in passing reform, but to show there is another way of talking about reform. I do not want that kind of Commissioner writing the regulations that will put the soft money ban of the McCain-Feingold bill into practice.

I am not going to stand here and tell you that enactment of the McCain-Feingold bill is assured in this session of Congress. We have a lot of work still to do to convince enough of those who are now voting to permit a filibuster to block us to change their minds. But if you truly believe that soft money must be banished from our system, as you have voted so many times in the past few years, you must vote against the nomination of Brad Smith. Otherwise, you may very well be responsible for ineffective FEC enforcement of the ban which will let soft money back into the system, nullifying all that we have worked so hard to accomplish.

The Senator from Kentucky began his presentation this morning by in essence asking for sympathy for Professor Smith because he has inspired such strong opposition both in the Senate and from outside commentators. He suggests that because the opposition is so heated that it must be distorted. And he quoted from law professors who have written in to defend Professor Smith and criticize the opposition to him. He said that from all that has been said about Professor Smith, one would think he has horns and a tail. I want to reiterate this because I think this approach the Senator from Kentucky has used is unfair to all of us who have opposed Professor Smith. Frankly, I think it is unfair to Professor Smith.

The opposition to Professor Smith is not personal. There is not a shred of a personal element to it and there never has been. It is based on his views, and in particular on his writings as a law professor and commentator on the election laws. The quotes I have called attention to today are not distortions, they are not taken out of context, they are not a caricature or a misrepresentation. These are Professor Smith's views, and he has reaffirmed them over and over again, including in the hearings held by the Rules Committee on his nomination. Yes, as we saw earlier, he has a beautiful family, and a beautiful dog, but that does not make his views on Federal election law any more acceptable to me or others who care about campaign finance reform.

Professor Smith has not disavowed the views he expressed in his many writings on campaign finance. He simply asks us to take on faith his promise that notwithstanding those views he will enforce the law. But it is not that simple. Issues come before the FEC that are not as clear cut as "will you enforce the law or not?"

The FEC has to implement and administer the law. It has to promulgate regulations to cover complicated legal issue that come about because candidates and groups do their utmost to get around the law. It has to initiate investigations of suspicious activities, sometimes with great pressure brought by the parties to do nothing.

I simply do not have confidence that an academic who holds the views expressed so clearly by Professor Smith will discharge his duties in a way that will uphold the spirit as well as the letter of the law.

Let me also respond to the argument expressed by both the Chairman and the Ranking Member of the Rules Committee that his Senate is bound to rubber stamp the President's appointments because by tradition each party is entitled to choose the members of the Commission.

First of all, I will say that I was very disappointed that President Clinton put forward this nomination. I expected more from a President who claims to support campaign finance reform. And I am pleased that Vice-President GORE has announced his opposition to the nomination of Professor Smith. I hope some day that we will have a President who will break with tradition—and that's all it is—tradition, and nominate independents or people who are not strongly identified with the parties to the FEC. I don't think the FEC or the country are well served by the kind of "balanced" Commission that we now have, where the Democratic and Republican Commissioners reliably line up on opposite sides of issues that have a partisan flavor, and line up in lock step together on issues that implicate the rights of third parties. I would like to see Commissioners on both sides who have an appreciation of the importance of the campaign finance laws and will vote to ensure fairness in elections.

But until we have that kind of President, who is willing to stand up to the leadership of the parties, we still have the Senate's duty of Advice and Consent. Nowhere is it said in the Constitution that the power of Advice and Consent is any different for members of the FEC. Otherwise, why would we not just have the President nominate people and not have the Senate vote. It is an abdication of the Senate's duty, I believe, for us to give any less scrutiny to this nominee simply because it is paired with another nominee from the other party.

The Senator from Kentucky also claimed that a nominee for a spot on

the FEC has never been defeated on the floor, and that is true. But it is not true that the wishes of each of the parties has always been respected. In the mid-1980s, the Republican Party, under pressure from the National Right to Work Committee, blocked the reappointment of a Democratic Commissioner, Thomas Harris, because of his work as a lawyer representing unions. President Reagan refused to renominate Harris, and after a lengthy stalemate, another nominee was suggested.

So much of the argument in favor of this nominee today has been based on this notion that to try to stop an FEC nomination is a complete break with precedent, that we have to simply rubberstamp this pairing of two FEC commissioners. The reality is contrary to the suggestion earlier today, the party of the Senator from Kentucky has not always acquiesced in the choice of the Democratic Party for its seats on the commission.

Let me finally just dispel one misconception that I think some might have about the negotiations and agreements that led to this debate, which is clearly tied to various judicial and other nominations. There is no requirement here that Professor Smith's nomination be approved by the Senate in order for these other nominations to go forward. That is a misconception that some, particularly on our side, may believe. It is simply not the case with regard to the unanimous consent agreement and the negotiations between the majority leader and minority leader. In fact, it would be an abdication of our responsibility not to vote on the merits of this particular nominee regardless of the other nominations whose consideration was linked to the consideration of this nomination.

With that I reserve the remainder of my time and I yield the floor.

Mr. President, I ask the time be charged equally as I suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. ALLARD. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

MORNING BUSINESS

Mr. ALLARD. Mr. President, on behalf of the majority leader, I ask unanimous consent that the Senate proceed to a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY

Mrs. BOXER. Mr. President, Senator GRAMS quoted a letter to President